

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

May 26, 2006

In Reply Refer To:  
Entergy Services, Inc.  
Docket No. ER06-811-000

Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Avenue, NW  
Washington, DC 20004

Attention: Ms. Erin M. Murphy, Esq.  
Attorney for Entergy Services, Inc.

Reference: Non-Conforming Service Agreement

Dear Ms. Murphy:

1. On March 31, 2006, Entergy Services, Inc. (Entergy), on behalf of Entergy Arkansas, Inc. (Entergy Arkansas), filed a Service Agreement<sup>1</sup> and an associated Confirmation Agreement providing for cost-based, short-term power sales to the City of Prescott, Arkansas (Prescott) to be effective April 1, 2006 through June 30, 2006. Entergy requests waiver of the Commission's 60-day prior notice requirement to allow the Service Agreement and Confirmation Agreement to become effective April 1, 2006. We will accept the Service Agreement and Confirmation Agreement, suspend them for a nominal period, to become effective April 1, 2006 (through June 30, 2006), as requested, subject to refund and subject to the outcome of another proceeding, as discussed below.

2. Entergy explains that an agreement between Entergy Arkansas and Prescott for full requirements service expired on December 31, 2005, and that Prescott entered into an agreement with an alternate supplier, Arkansas Electric Cooperative Corporation (Arkansas Cooperative), for its capacity and energy requirements commencing January 1, 2006. However, Entergy states that Entergy

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<sup>1</sup> Entergy Services, Inc. FERC Electric Tariff No. 5, First Revised Service Agreement No. 1.

Arkansas raised certain issues concerning Arkansas Cooperative's ability to serve Prescott consistent with Arkansas Cooperative's obligations under the Power Coordination Interchange and Transmission Service Agreement between Arkansas Cooperative and Entergy Arkansas. Entergy Arkansas agreed to supply Prescott with capacity and energy for an additional period while giving the parties additional time to resolve their issues.

3. On March 2, 2006, the Commission accepted, made effective subject to refund and subject to the outcome of the proceeding in Docket No. ER91-569-031, *et al.*, a service agreement for cost-based, short-term power sales, for a three-month term from January 1, 2006 through March 31, 2006, by Entergy Arkansas to Prescott in Docket No. ER06-437-000.<sup>2</sup>

4. Entergy states that the parties are engaged in continuing discussions to resolve the issues in dispute. However, Entergy explains that the service agreement accepted for filing in Docket No. ER06-437-000 expires on March 31, 2006. Accordingly, Entergy submitted the Service Agreement and associated Confirmation Agreement to permit a continuation of service to Prescott from April 1, 2006 through June 30, 2006, while the parties continue negotiations.

5. Entergy states that the Service Agreement is submitted for filing as a non-conforming service agreement to comply with section 35.1(g) of the Commission's regulations.<sup>3</sup> Additionally, Entergy explains that the instant Service Agreement with Prescott is identical to the *pro forma* service agreement included with Entergy's Cost-Based Rate Tariff filing, pending in Docket No. ER91-569-031, *et al.*, except for limited modifications made to reflect the specific circumstances of the Prescott transaction.

6. Entergy requests that the Commission grant waiver of the 60-day prior notice requirement to permit an April 1, 2006 effective date. Entergy states that waiver is appropriate because both parties request the effective date and this request is consistent with the Commission's policy of granting waiver of notice when service agreements under umbrella tariffs are filed within 30 days after the date upon which service commences.

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<sup>2</sup> *Entergy Services Inc.*, 114 FERC ¶ 61,236 (2006).

<sup>3</sup> See 18 C.F.R. § 35.1(g) (2005) (requiring that any individually executed service agreement for "transmission, cost-based power sales, or other generally applicable services that deviates in any material respect from the applicable form of service agreement contained in the public utility's tariff" must be filed with the Commission).

7. Notice of Entergy's filing was published in the *Federal Register*, 71 Fed. Reg. 19,720 (2006), with interventions and protests due on or before April 21, 2006. Arkansas Cooperative filed a timely motion to intervene.<sup>4</sup> Prescott filed a timely motion to intervene and comments. Prescott explains that previously disputed issues have been sufficiently resolved by the parties and no further extensions of the Service Agreement will be necessary.
8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.
9. The Commission finds that the rates, terms and conditions of service for this extension of the Service Agreement are essentially identical to those previously accepted in Docket No. ER06-437-000, subject to refund and subject to the outcome of the proceeding in Docket No. ER91-569-031, *et al.*, except for limited modifications made to reflect the specific circumstances of the transaction. Moreover, the extension of service under the Service Agreement between Entergy Arkansas and Prescott will enable Entergy Arkansas to provide Prescott with energy and capacity while giving the parties additional time to resolve their issues. In addition, Entergy assures the Commission that the interim service arrangement between Entergy Arkansas and Prescott will not diminish or otherwise affect Prescott's rollover rights with respect to transmission service.
10. We will accept for filing the Service Agreement and Confirmation Agreement between Entergy Arkansas and Prescott, suspend them for a nominal period, make them effective April 1, 2006 (through June 30, 2006),<sup>5</sup> as requested, subject to refund and subject to the outcome of the ongoing proceeding concerning

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<sup>4</sup> In its intervention, Arkansas Cooperative asserts that its failure to protest the instant filing should not be construed as acquiescence in Entergy Arkansas's continued refusal to allow Arkansas Cooperative to use its Power Coordination Interchange Transmission Service Agreement resources to serve Prescott. Arkansas Cooperative Motion to Intervene at 3.

<sup>5</sup> *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139 at 61,984, *order on reh'g*, 65 FERC ¶ 61,081 (1993).

Entergy's Cost-Based Rate Tariff in Docket No. ER91-569-031, *et al.*, which will establish the rates, terms and conditions of the instant Service Agreement and Confirmation Agreement.

By direction of the Commission.

Magalie R. Salas,  
Secretary.